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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,706

03/31/2004

Peter Anderson

H0005720-1045

8907

7590

02/23/2005

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EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/813,706	ANDERSON ET AL.	
	Examiner	Art Unit	
	Gail Verbitsky	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-13 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/19/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 10-13, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Roeckel et al. (U.S. 20030126925) [hereinafter Roeckel].

Roeckel discloses in Figs. 1-2 a device 1 comprising a temperature sensor 23 located in a sensor cavity and positioned along a centerline of the cavity 20 and generating a signal indicating a temperature of an airflow 6. The sensor cavity 20 is surrounded with a cylindrical outer casing (tubular member) 3, 8 (Fig. 2). Said outer casing 3, 8 includes a pattern of flow passages 36 having a declined deflection angle (offset of the center line) such that there is no direct line of the air flow from the exterior of the outer casing through the passages to the sensor 23. The holes are made by a material removing method/step (paragraph [0015]). This would imply, that the material is removed at said angle, the angle is a function of the thickness of said outer casing; in other words, it depends on the thickness of the outer casing which allows some degree of angulation.

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For claims 2, 12: This would imply, that the sensor is prevented from being directly impacted by the airflow including any debris in the airflow.

For claims 10, 20: as shown in Fig. 2, the flow passages are equally spaced by the thickness of their walls.

For claims 3 and 13: the holes are round (circular) (paragraph [0022]).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roeckel.

Roeckel discloses the device as stated above in paragraph 2.

Roeckel does not teach the particular material, i.e., stainless steel to make the outer casing, as stated in claims 8 and 18.

With respect to claims 8 and 18: the use of the particular material, i.e., stainless steel, as stated in claims 8 and 18, for the outer casing, absent any criticality, is only considered to be the "optimum" material that a person having ordinary skill in the art at the time the invention was made using routine experimentation would have found obvious to provide for the outer casing disclosed by Roeckel since it has been held to be a matter of obvious design choice and within the general skill of a worker in the art to

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select a known material on the basis of its suitability for the intended use of the invention. In re Leshin, 125 USPQ 416.

5. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roeckel in view of Suzuki et al. (U.S. 4941437) [hereinafter Suzuki]

Roeckel discloses the device as stated above in paragraph 2.

Roeckel does not teach the material removing method is a drilling, as stated in claims 9 and 19.

Suzuki teaches that holes could be done by drilling.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of removing material, disclosed by Roeckel, with removing the material from the hole by drilling, as taught by Suzuki, because both of them are alternate types of methods of removing the material which will perform the same function, of producing holes in a structure, if one is replaced with the other.

### ***Allowable Subject Matter***

6. Claims 4-7 and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Gotcher U.S. 4575705 discloses a device in the field of applicant's endeavor comprising a stainless steel outer casing.

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Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

Gail Verbitsky

Primary Patent Examiner, TC 2800

A handwritten signature in black ink, appearing to read "G. Verbitsky", written in a cursive style.

February 09, 2005